

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

ARTEMIO HERNANDEZ VARELA,
Petitioner.

No. 2 CA-CR 2016-0369-PR
Filed January 6, 2017

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
NOT FOR PUBLICATION
See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Crim. P. 31.24.

Petition for Review from the Superior Court in Pinal County
No. S1100CR201400054
The Honorable Joseph R. Georgini, Judge

APPEAL DISMISSED

COUNSEL

M. Lando Voyles, Pinal County Attorney
By Wade C. Tanner, Deputy County Attorney, Florence
Counsel for Respondent

Artemio H. Varela, Kingman
In Propria Persona

STATE v. VARELA
Decision of the Court

MEMORANDUM DECISION

Judge Vásquez authored the decision of the Court, in which Presiding Judge Howard and Chief Judge Eckerstrom concurred.

VÁSQUEZ, Judge:

¶1 Artemio Varela seeks review of the trial court’s rulings on various motions filed in his ongoing post-conviction proceeding under Rule 32, Ariz. R. Crim. P. Because there is no final decision on a petition for post-conviction relief for us to review pursuant to Rule 32.9(c), we dismiss the petition for review.

¶2 After a jury trial, Varela was convicted of three counts of sexual abuse and sentenced to consecutive, 2.25-year prison terms for each offense. He timely appealed, but this court later dismissed that appeal pursuant to Varela’s motion. Varela filed a notice of post-conviction relief through counsel but later decided to proceed pro se. He filed a variety of motions, including motions seeking to compel discovery, require the Department of Corrections to correct its time computation, and “expunge” from the record his “rape charge and child molestation charge.” He additionally sought leave to file an “untimely appeal” and filed a “delayed” motion for a new trial. The trial court denied Varela’s motions, and this petition for review followed. The court stayed the Rule 32 proceeding pending our decision.

¶3 Although Varela cites Rule 32.9(c) in his petition for review, that rule only permits review of a “final decision of the trial court on the petition for post-conviction relief or the motion for rehearing.” The post-conviction proceeding has been stayed, and there is no final decision for this court to review.¹ Accordingly, we dismiss Varela’s petition for review.

¹In his reply to the state’s response to his petition for review, Varela states he “d[oes] not seek special action” relief.